

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

ETTA CEASAR, ET AL

PLAINTIFFS

VERSUS

CIVIL ACTION NO. 3:16cv609 LG-RHW

YAZOO COUNT REGIONAL
CORRECTIONAL FACILITY, ET AL

DEFENDANTS

ANSWER AND AFFIRMATIVE DEFENSES

NOW COME the Defendants in the above captioned matter, by and through the undersigned counsel, who file this their Response to the Plaintiffs' Amended Complaint as follows:

AFFIRMATIVE DEFENSES

FIRST DEFENSE

The Amended Complaint fails to state a cause of action against the Defendants upon which relief can be granted.

SECOND DEFENSE

Defendants specifically reserve and invoke all rights, privileges and defenses, including but not limited to those set forth in Rules 8(c) and 12(b) of the Federal Rules of Civil Procedure, the United States Code (specifically including but not limited to the Fair Labor Standards Act) and/or at common law for which a good faith legal and/or factual basis exists in their favor.

THRID DEFENSE

Plaintiffs' claims are barred, in whole or in part, by the applicable statute of limitations.

FOURTH DEFENSE

The Yazoo County Regional Correctional Facility, the Yazoo County Board of Supervisors, and the Yazoo County Sheriff's Department have been improperly named as Defendants in this cause, as under controlling Mississippi law, none of those entities enjoy a separate legal experience, and thus they lack the capacity to be sued. Accordingly, all claims against these Defendants must be dismissed with prejudice.

FIFTH DEFENSE

Defendants Cobie Collins and Jacob Sheriff (incorrectly identified in the Amended Complaint as "Jack Sheriff") have been improperly named as Defendants in this cause, as all of the Plaintiff's claims in this cause concern their employer's alleged failure to pay all required compensation, and neither Collins nor Sheriff were the Plaintiffs' employer.

SIXTH DEFENSE

No Plaintiff is entitled to any liquidated damages or penalties under the Fair Labor Standards Act because, at all times relevant and material herein, Defendants acted in good faith towards the Plaintiffs.

SEVENTH DEFENSE

With regard to the relief being sought by the Plaintiffs in this cause, the Defendants claim all off-sets to which they are or may be entitled under the Fair Labor Standards Act and/or other statutes or common law.

EIGHTH DEFENSE

The Defendants expressly invoke and avail themselves of any and all immunities that are or may be available to them in this cause.

NINTH DEFENSE

Defendants deny all allegations contained in the Plaintiffs' Amended Complaint which are not expressly admitted herein.

TENTH DEFENSE

Defendants are continuing to investigate Plaintiffs' allegations and thus reserve the right to amend this Answer and/or assert additional Affirmative Defenses at a later date.

ELEVENTH DEFENSE

Defendants now respond to the Amended Complaint, paragraph by paragraph, as follows:

PARTIES

1. Admitted upon information and belief.
2. Admitted upon information and belief.
3. Admitted upon information and belief.
4. Admitted upon information and belief.
5. Admitted upon information and belief.
6. Admitted upon information and belief.
7. Admitted upon information and belief.
8. Admitted upon information and belief.
9. Admitted upon information and belief.
10. Admitted upon information and belief.
11. Admitted upon information and belief.
12. Admitted upon information and belief.

13. No response to the allegations contained in this paragraph of the Amended Complaint is necessary, as the Yazoo County Regional Correctional Facility previously executed

a Waiver of Service in this cause (while reserving its right to object to its inclusion as a Defendant in the litigation).

14. Admitted.

15. Denied, as the Yazoo County Board of Supervisors is not a proper Defendant in the litigation.

16. No response to the allegations contained in this paragraph of the Amended Complaint is necessary, as the Yazoo County Sheriff's Department previously executed a Waiver of Service in this cause (while reserving its right to object to its inclusion as a Defendant in the litigation).

17. Denied, as Cobie Collins is not a proper Defendant in this litigation.

18. No response to the allegations contained in this paragraph of the Amended Complaint is necessary, as Jake Sheriff previously executed a Waiver of Service in this cause (while reserving his right to object to his inclusion as a Defendant in the litigation).

JURISDICTION AND VENUE

19. Admitted.

STATEMENT OF THE FACTS

20. Admitted that at least some of the Plaintiffs have been employed by Defendant Yazoo County as non-supervisory employees at some point(s) during the past three (3) years. Otherwise, denied.

21. Denied.

22. Denied.

23. Admitted.

24. Denied.

25. Admitted.

26. Denied.

27. Admitted.

28. Denied.

29. Admitted that 29 C.F.R. § 553.50 imposes certain record keeping obligations on covered employers. Otherwise, denied as stated.

30. Denied.

CAUSES OF ACTION

VIOLATION OF THE FAIR LABOR STANDARDS ACT

Defendants adopt and incorporate by reference herein the preceding paragraphs of the instant Answer and Affirmative Defenses.

31. Admitted that at least some of the Plaintiffs were non-exempt employees who were subject to the Fair Labor Standards Act. Otherwise, denied.

32. Admitted that the Fair Labor Standards Act requires that when qualified employees are entitled to overtime pay, said pay be at a rate of not less than one and one-half times the employees' regular rate of pay. Otherwise, denied.

33. Denied.

34. Denied.

35. Denied.

PRAYER FOR RELIEF

Defendants deny all allegations contained in the first unnumbered paragraph of the Amended Complaint which follows the paragraph numbered 35, and which begins with WHEREFORE PREMISES CONSIDERED. Defendants deny that the Plaintiffs are entitled to

the relief requested by them in their Amended Complaint. Defendants respectfully request that this cause of action be dismissed with prejudice, as well as any other relief to which they are or may be entitled in this matter.

Respectfully submitted on the 5th day of December, 2016.

YAZOO COUNTY REGIONAL
CORRECTIONAL FACILITY; YAZOO
COUNTY, MISSISSIPPI; YAZOO COUNTY
BOARD OF SUPERVISORS; YAZOO COUNTY
SHERIFF'S DEPARTMENT; COBIE COLLINS,
IN HIS INDIVIDUAL CAPACITY AND HIS
OFFICIAL CAPACITY AS THE PRESIDENT OF
THE YAZOO COUNTY BOARD OF
SUPERVISORS; AND JAKE SHERIFF IN HIS
INDIVIDUAL CAPACITY AND HIS OFFICIAL
CAPACITY AS THE SHERIFF OF YAZOO
COUNTY, MISSISSIPPI

BY: HENRY, BARBOUR, DeCELL &
BRIDGFORTH, LTD.

BY: /s/ Wiley J. Barbour, Jr.
WILEY J. BARBOUR, JR., MSB# 99521

OF COUNSEL:

HENRY, BARBOUR, DeCELL
AND BRIDGFORTH
P.O. Box 1569
Yazoo City, Mississippi 39194
662-746-2134 (Office)
662-746-2167 (Fax)

CERTIFICATE OF SERVICE

I, the undersigned counsel of record, do hereby certify that on the 5th day of December, 2016, I filed the above and foregoing with the Court via the Court's CM/ECF system, which will forward notice of the same to the following counsel of record:

Louis H. Watson, Jr., Esq.
Nick Norris, Esq.
WATSON AND NORRIS, PLLC
1880 Lakeland Drive, Suite G
Jackson, Mississippi 39216-4972

Attorney for the Plaintiff

BY: /s/ Wiley J. Barbour, Jr.
WILEY J. BARBOUR, JR., MSB# 99521